

## Message Text

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ACTION DHA-02

INFO OCT-01 EUR-12 NEA-10 IO-13 ISO-00 CIAE-00 DODE-00  
PM-04 H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01  
PRS-01 SP-02 SS-15 USIA-06 AID-05 HEW-04 /092 W  
-----101395 271937Z /43

R 271755Z JUN 77  
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TO SECSTATE WASHDC 8641  
INFO AMEMBASSY BELGRADE  
AMEMBASSY MOSCOW  
USMISSION USUN NEW YORK  
AMEMBASSY TEL AVIV

C O N F I D E N T I A L GENEVA 5228

EO 11652: GDS  
TAGS: CHARGE POL

SUBJ: 1. SOVIET REACTION TO USG HUMAN RIGHTS STAND  
2. SOVIET RESUMPTION OF DIPLOMATIC RELATIONS WITH ISRAEL

1. AT LUNCH BETWEEN SOVIET MEMBER OF INTERNATIONAL LAW COMMISSION, NIKOLAI USHAKOV, AND U.S. MEMBER SCHWEBEL, USHAKOV ASKED WHETHER CARTER ADMINISTRATION WILL MAINTAIN ITS HUMAN RIGHTS OFFENSIVE WHICH, USHAKOV ADDED, CLEARLY CONSTITUTED UNLAWFUL INTERVENTION IN SOVIET INTERNAL AFFAIRS. SCHWEBEL REPLIED THAT, WHILE HE WAS NOT IN A POSITION TO PREDICT ADMINISTRATION ACTIONS, HE WAS CONFIDENT THAT IT HAD NOT UNLAWFULLY INTERVENED IN SOVIET INTERNAL AFFAIRS, PARTICULARLY BECAUSE THE ADMINISTRATION HAD ADDRESSED MATTERS AS TO WHICH THE USSR HAS OBLIGATIONS UNDER INTERNATIONAL LAW. THE QUESTION OF WHETHER OR NOT A STATE IS MEETING ITS INTERNATIONAL OBLIGATIONS BY DEFINITION IS NOT ONE OF DOMESTIC JURISDICTION. USHAKOV AGREED BUT SAID THAT, IF THE USG IS COMPLAINING OF SOVIET VIOLATION OF TREATY OBLIGATIONS, IT SHOULD CONFINE ITS OFFICIAL COMPLAINTS TO THE PROCEDURES PROVIDED FOR IN SUCH TREATIES. E.G., IF THE USG BELIEVES THAT THE USSR IS IN VIOLATION  
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OF A UN COVENANT, IT SHOULD PURSUE THE MATTER IN THE COMMITTEE SET UP BY THE TERMS OF THAT COVENANT TO MONITOR COMPLIANCE. BUT PUBLIC COMPLAINTS NOT BY PRIVATE INDIVIDUALS OR THE PRESS OR A POLITICAL PARTY BUT BY THE AMERICAN PRESIDENT, SECRETARY OF STATE AND OTHER OFFICIALS, NOT CONFINED TO SUCH CHANNELS, ARE INTOLERABLE AND COULD ONLY PREJUDICE SOVIET-AMERICAN RELATIONS.

2. SCHWEBEL INQUIRED WHETHER, ACCORDINGLY, IN USHAKOV'S VIEW, THE USSR WOULD BE OPEN TO PURSUIT OF COMPLAINTS AGAINST IT IN THE UN HUMAN RIGHTS COMMISSION AND AT BELGRADE; HE OBSERVED THAT IT HAD NOT MANIFESTED GREAT OPENNESS. USHAKOV SAID THAT HE COULD OFFER ONLY HIS OWN VIEW. AS TO BELGRADE, HE BELIEVED THE USSR IS OPEN TO A REVIEW OF ITS PERFORMANCE AS WELL AS THAT OF OTHERS UNDER THE HELSINKI ACCORD, PROVIDED THAT APPROPRIATE WEIGHT IS GIVEN TO ALL ELEMENTS OF THE ACCORD. AS TO THE HRC, HE SAID THAT HE DID NOT FAVOR THE USSR OPPOSING ITS EXAMINATION OF COMPLAINTS AGAINST THE USSR. SCHWEBEL REMARKED ON THE RECORD OF THE MOST RECENT HRC SESSION, BUT USHAKOV REPEATED HIS VIEW, AT THE SAME TIME COUPLING IT WITH THE DECLARATION THAT PUBLIC, OFFICIAL, AND ESPECIALLY HIGH-LEVEL U.S. CRITICISM OF THE USSR ON HUMAN RIGHTS GROUNDS MUST CEASE.

COMMENT: USHAKOV, WHO RAISED THE SUBJECT OF HUMAN RIGHTS, SEEMED TO BE SUGGESTING THAT THE USSR MIGHT BE PREPARED TO EXCHANGE HRC AND BELGRADE CONSIDERATION OF SOVIET HUMAN RIGHTS PERFORMANCE FOR ABSTINENCE BY THE USG FROM HIGH-LEVEL CRITICISM OUTSIDE SUCH FORA.  
END COMMENT.

3. USHAKOV, IN COMMENTING UPON INTERNATIONAL LAW COMMISSION TRENDS AND PERSONALITIES, REMARKED THAT A FORMER MEMBER, ISRAELI AMBASSADOR SHABTAI ROSENNE, WAS AS MUCH OF A LEGAL CONFIDENTIAL

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PURIST AS HE IS, AND VOLUNTEERED THAT HE HAD MAINTAINED CORDIAL RELATIONS WITH ROSENNE AFTER ROSENNE HAD LEFT THE ILC AND AFTER THE SOVIET BREAK IN DIPLOMATIC RELATIONS WITH ISRAEL. HE SAID THAT HE WAS PREPARED TO MEET AT ANY TIME WITH AN ISRAELI DIPLOMAT AND THAT HE WAS CONVINCED THAT A RESUMPTION OF DIPLOMATIC RELATIONS BETWEEN THE USSR AND ISRAEL IS "NEAR". HE INDICATED THAT THE ADVENT OF THE NEW ISRAELI GOVERNMENT COULD, BUT PROBABLY WOULD NOT, ALTER THAT JUDGMENT. WHEN SCHWEBEL ASKED WHETHER USHAKOV HAD HAD OCCASION TO MEET THE CURRENT ISRAELI AMBASSADOR IN GENEVA, THEODOR MERON, ANOTHER VERY ABLE INTERNATIONAL LAWYER AND FORMER LEGAL ADVISER OF THE ISRAELI FOMIN, USHAKOV STATED THAT HE HAD NOT BUT WOULD BE OPEN TO DOING SO. COMMENT: IF THE DEPARTMENT SEES ANY PROBLEM IN SCHWEBEL INVITING USHAKOV AND MERON TO LUNCH, PLEASE ADVISE. MERON HAS RESIGNED FROM ISRAELI SERVICE AS OF THE END OF JULY FOR REASONS CONNECTED WITH HIS WIFE'S PROFESSIONAL STATUS. END COMMENT.SORENSEN

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Expiration:**  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009